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Trustee for the SIPA Liquidation of Lehman Brothers Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

LEHMAN BROTHERS HOLDINGS INC., *et al.*,

Debtors.

Chapter 11

Case No. 08-13555 (SCC)
(Jointly Administered)

**LB I TRUSTEE’S STATEMENT IN RESPECT OF THE MOTION TO DESIGNATE
DIAZ REUS & TARG, LLP AS AGENT FOR RECEIPT OF
DISTRIBUTIONS AND HONOR CHANGE OF ADDRESS FOR PURPOSES OF THE
FIFTH DISTRIBUTION DATE AND ALL FUTURE DISTRIBUTIONS**

James W. Giddens (the “Trustee”), as trustee for the liquidation of the business of Lehman Brothers Inc. (“LB I”), under the Securities Investor Protection Act of 1970, as amended, 15 U.S.C. §§ 78aaa *et seq.* (“SIPA”), by and through his undersigned counsel, submits this statement (the “Statement”) in respect of the motion filed by Diaz Reus & Targ, LLP (“DRT”), purportedly on behalf of Credican, C.A. (“Credican”), dated March 13, 2014 (ECF No. 43537) (the “DRT Motion”), and respectfully represents as follows:

STATEMENT

1. For reasons of judicial economy and efficient administration of the LB I proceeding, the Trustee respectfully requests that the Court apply its determination regarding the rightful payee on Credican’s claims against Lehman Brothers Holdings Inc. (“LBHI”) in the

chapter 11 cases (the “LBHI Credican Claims”) to the LBI Canarias Claim (as defined in Paragraph 3). Although neither of the purported attorneys for Credican, nor the Credican shareholders, have filed papers in the LBI proceeding, the issues surrounding the LBI Canarias Claim are identical to the issues presently before the Court in the LBHI proceeding.

2. The Trustee is in the process of making one-hundred percent distributions on allowed LBI customer claims. The LBI Canarias Claim is one such claim that remains unpaid, though the Trustee is prepared to make a full distribution on it. The Trustee has not done so, however, because of the pending litigations regarding proper entitlement to the distribution. DRT has not sought relief in the LBI proceeding, and the Trustee takes no position on the DRT Motion.

3. On January 29, 2009, Banco Canarias de Venezuela, Banco Universal, C.A. (“Banco Canarias”) filed a customer claim in relation to its LBI account, which was assigned claim number 900003945 (the “LBI Canarias Claim”). By Notice of Trustee’s Determination dated March 22, 2010, the Trustee allowed the LBI Canarias Claim as a customer claim for five securities and \$18,053.72 in cash. On May 14, 2012, Banco Canarias purportedly transferred the LBI Canarias Claim to Credican (See Notice of Transfer (June 1, 2012), LBI ECF No. 5097). No subsequent notices of transfer have been provided to the Trustee or docketed with the Court in the LBI proceeding regarding the LBI Canarias Claim.

4. By email dated June 4, 2012, Credican administrator Rosa María Jiménez, on behalf of the Credican Administration Board (the “Credican Administrators”), informed the Trustee’s counsel that Credican was being operated by Superintendencia de las Instituciones del Sector Bancario (SUDEBAN) as of August 3, 2010. The Credican Administrators have not subsequently contacted the Trustee; neither directly nor through either of their purported counsel

regarding the LBI Canarias Claim, except that Mr. Alcantar emailed a courtesy copy of his firm's March 21, 2014 objection to the DRT Motion.

5. Also in June 2012, the Credican shareholders, represented by Chadbourne & Parke LLP, filed a lawsuit in the Southern District of New York regarding the nationalization of Banco Canarias and Credican by the Venezuelan government, arguing that both the LBI Canarias Claim and the LBHI Credican Claims are their property (the "District Court Proceeding"). The lawsuit was dismissed in January 2014. See Smith Rocke Ltd. v. Republica Blivariana De Venez., No. 12 Cv. 7613 (LGS), 2014 U.S. Dist. LEXIS 9692 (S.D.N.Y. Jan. 27, 2014). The shareholders have since appealed the case to the Second Circuit. See Smith Rocke Ltd v. Superintendencia de las Instituciones del Sector Bancario, FKA, et al., No. 14-654 (2d Cir. 2014).

6. Because of the uncertainty presented by the disputes over Canarias' (and Credican's) assets, as presented by the District Court Proceeding, the DRT Motion, and the filed opposition to the DRT Motion, the Trustee has refrained from making distributions on the claim to any party. The Trustee, like LBHI, will continue to refrain from making distributions on the LBI Canarias Claim until the DRT Motion is resolved and clear ownership of the LBI Canarias Claim is judicially determined. The Trustee will also continue to maintain a reserve for the LBI Canarias Claim. Because of redemptions, maturities, liquidation disbursements, and dividends on the allowed securities, the cash entitlement for the claim has increased to approximately \$10.6 million, and three securities (which are available for in-kind delivery) remain as due.

7. The Trustee respectfully requests that any order (or other determination issued or approved by the Court) regarding the proper payee of distributions on the LBHI Credican Claims apply with equal force and effect to the LBI Canarias Claim. This will avoid

the additional time and expense of the Trustee separately litigating the same dispute with the same parties before the Court in the LBI Proceeding, furthering the goal of judicial economy.

Dated: New York, New York
March 31, 2014

HUGHES HUBBARD & REED LLP

By: /s/ Christopher K. Kiplok
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